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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,864	07/24/2001	Ryan Burkhardt	MS#155706.1 (4931)	6214

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SENNIGER POWERS LEAVITT AND ROEDEL
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

SURYAWANSHI, SURESH

ART UNIT	PAPER NUMBER
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2115

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/912,864

Applicant(s)

BURKHARDT ET AL.

Examiner

Suresh K Suryawanshi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-55 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-11, 15, 20-36, 39-40, 42-49, 51 and 53-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Day et al (US Patent no 6,016,400).

4. As per claims 1 and 23, Day et al teach

providing a user-customized, text-based script [col. 3, lines 49-51; the preload customization script that has been customized before installing an operating system];

booting a computer from an operating system image on a computer readable medium [col. 4, lines 14-17; booting with a base operating system], wherein said computer has an architecture greater than 32-bits [col. 2, line 65; PowerPC system; col. 3, line 12; IBM RS/6000];
and

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performing one or more functions on the computer according to the user-customized, text-based script [col. 3, line 65 – col. 4, line 33; installing various software applications and the complete operating system with several changes based on customization script; col. 3, lines 5-9].

5. As per claim 24, Day et al teach

providing a user-customized, text script [col. 3, lines 49-51; the preload customization script that has been customized before installing an operating system];

booting a computer from a first operating system image on a computer readable medium [col. 4, lines 14-17; booting with a base operating system]; and

installing a second operating system image on the computer according to the user-customized, text-based script, wherein booting and installing include only one re-boot of the computer [col. 3, lines 5-9; col. 4, lines 27-33; after booting with a first operating system that gives a startup support and to read the customization script to install applicable software and a second customized operating system; col. 2, lines 22-26].

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6. As per claim 31, Day et al teach

a first operating system image with operating system components selected by a user [col. 4, lines 14-17; booting with a base operating system selected by a user from a readable medium];

a second operating system image [col. 3, lines 5-9; col. 4, lines 27-33; after booting with a first operating system that gives a startup support and to read the customization script to install applicable software and a second customized operating system; col. 2, lines 22-26]; and

a text-based script file customized by a user which interacts with the first operating system image to install the second operating system image on a computer [col. 3, lines 49-51; the preload customization script that has been customized before installing an operating system and the first base operating system uses this script file to install applicable software and customize the second operating system accordingly], wherein the computer has an architecture greater than 32-bit [col. 2, line 65; PowerPC system; col. 3, line 12; IBM RS/6000].

7. As per claims 39 and 46, Day et al teach

selecting a subset of operating system components from a plurality of operating system components [col. 4, lines 13-15; base operating boot code];

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generating a list of files associated with the selected subset of operating system components [col. 4, lines 19-33]; and

installing the selected subset of operating system components on the destination medium as the operating system image [col. 2, lines 23-25; col. 3, lines 5-9; col. 4, lines 27-33], wherein installing includes the files from an installation medium to the destination medium [col. 4, lines 10-33; CD to hard drive].

8. As per claim 47, Day et al teach

at least one application program which, when executed by one or more processors on a computer, causes the one or more processors to perform acts including allowing a user to select a set of operating system components from the plurality of operating system components and generating a list of files associated with the selected set of operating system components [col. 2, lines 23-25; col. 3, lines 5-9; col. 3, line 40 – col. 4, line 33]; and

operating system component modifications which allow the selected set of operating system components to execute as the operating system image [col. 2, lines 23-25; col. 4, lines 27-33; custom installation].

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9. As per claim 2, Day et al disclose that wherein performing comprises installing another operating system image on the computer [col. 3, lines 5-9; col. 4, lines 27-33].
10. As per claim 3, Day et al disclose that wherein the computer includes a mass storage device [fig. 1; element 24; col. 5, lines 1-3] and wherein performing comprises partitioning the mass storage device [inherent in the process of installing an operating system].
11. As per claims 4 and 27, Day et al disclose that wherein the computer includes a mass storage device [fig. 1; element 24] and wherein performing comprises formatting the mass storage device [inherent in the process of installing an operating system].
12. As per claim 5, Day et al disclose that wherein formatting comprises formatting the mass storage device with a file system in a format supported by the operating system image [inherent in the process of installing an operating system].
13. As per claims 6 and 26, Day et al disclose that wherein the computer includes hardware and [inherent to a PowerPC or RS/6000 computer system] wherein performing further comprises validating the hardware [inherent in the process of installing an operating system].
14. As per claim 7, Day et al disclose that prior to installing, validating the hardware using protected mode hardware drivers [inherent in the process of installing an operating system].

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15. As per claims 8 and 28, Day et al disclose that wherein installing comprises copying one or more files associated with the another operating system image to the computer and integrating the files [inherent in the process of installing an operating system].

16. As per claims 9 and 29, Day et al disclose that wherein the script identifies a plurality of steps in which the files are copied and integrated and wherein the script identifies the sequence in which the plurality of steps are executed [col. 3, line 48 – col. 4, line 33].

17. As per claims 10 and 35, Day et al disclose that wherein the computer has a 64-bit architecture [col. 2, line 65; PowerPC system; col. 3, line 12; RS/6000 system].

18. As per claim 11, Day et al disclose that wherein booting and performing are operative on a computer having an architecture of 32-bits or less [col. 2, line 65; PowerPC system; col. 3, line 12; RS/6000 system].

19. As per claims 15 and 25, Day et al disclose that wherein the computer readable medium includes the script [col. 3, lines 40-51].

20. As per claim 20, Day et al disclose that editing the user-customized, text-based script so that performing installs another operating system image [col. 3, lines 5-9; as the customization script is editable to install a variety of operating systems and application software].

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21. As per claims 21 and 44, Day et al disclose that one or more computer readable media having computer-executable instructions for performing the method recited in claim 1 [col. 40-43].

22. As per claims 22 and 45, Day et al disclose that the operating system image on the computer resulting from the computerized method of claim 2 [col. 3, lines 5-9; col. 4, lines 10-33].

23. As per claim 30, Day et al disclose that wherein the computer includes the computer readable medium [fig. 1; col. 60-62].

24. As per claim 32, Day et al disclose that wherein each of the operating system components comprises at least one file [inherent as the base operating boot code will be saved as a file].

25. As per claims 33 and 40, Day et al disclose that wherein the operating system components include hardware drivers [inherent to an operating system to include hardware drivers].

26. As per claim 34, Day et al disclose that wherein the second operating system image includes a plurality of operating system components [inherent to the complete operating system] and wherein the first operating system image includes a subset of the plurality of operating system components [clearly the base operating system will have a subset of the plurality of operating system as it is used to install a variety of operating system; col. 3, lines 5-9].

27. As per claim 36, Day et al disclose that wherein the script file is operative on a computer having an architecture of 32-bits or less [col. 2, line 65; PowerPC system; col. 3, line 12; RS/6000 system].

28. As per claim 42, Day et al disclose that wherein installing further comprises integrating the files on the destination medium [inherent in the process of installing an operating system].

29. As per claim 43, Day et al disclose that selecting additional operating system components, and wherein installing comprises installing the additional operating system components on the destination medium [col. 4, lines 9-33].

30. As per claim 48, Day et al disclose that the system further comprising a text-based script for directing performance of one or more functions by the operating system image [col. 2, lines 23-25; col. 3, lines 48-51; col. 4, lines 27-33].

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31. As per claim 49, Day et al disclose that wherein the functions include installing an operating system on another computer [col. 3, line 11; assembly of workstations].

32. As per claim 51, Day et al disclose that wherein the set of operating system components is a subset of the plurality of operating system components [clearly the base operating system will have a subset of the plurality of operating system as it is used to install a variety of operating system; col. 3, lines 5-9].

33. As per claim 53, Day et al disclose that wherein the operating system component modifications include writing state information to volatile memory [inherent to the system].

34. As per claim 54, Day et al disclose that wherein the application program, when executed, further causes the one or more processors to perform acts including generating the operating system image [col. 4, lines 9-33].

Claim Rejections - 35 USC § 103

35. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

36. Claims 12-14, 16-19, 37-38, 41, 50, 52 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day et al (US Patent no 6,016,400).

37. As per claim 12, Day et al disclose the invention substantially. Day et al do not disclose expressly about setting a flag and responsive to the set flag, enabling functionality within the operating system image. But clearly, Day et al disclose customizing the operating system according to a customization script. Thus, there has to be some sort of flag setting to indicate the operating system of various enabling and disabling certain functionalities. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize flag setting to enable and disable certain functionalities of an operating system according to the customization script.

38. As per claim 13, Day et al disclose that allowing user mode software to perform configuration responsive to the set flag [col. 4, lines 27-33].

39. As per claim 14, Day et al disclose that wherein functionality includes loading configuration information into volatile memory [inherent in the process of installing an operating system].

40. As per claim 16, Day et al disclose the invention substantially. Day et al do not disclose expressly about having the script in remote from the computer readable medium. However, a routineer would know that it is possible to have such an script in a remote computer and through network capability one can download to the local computer. Therefore, it would have been obvious to one of ordinary skill in the art to store the script in a remote computer and this way allowing a number of computers to access the script.

41. As per claim 17, Day et al disclose the invention substantially. Day et al do not disclose expressly about recovering the computer from failure of software. However, a routineer in the art would recognize this aspect and user the same procedure to recover the computer in case of a failure. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the same procedure of installing an operating system to recover the computer in case of failure where the installed operating system does not function properly.

42. As per claim 18, Day et al disclose that wherein the software includes an operating system or an application program [col. 2, lines 24-25].

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43. As per claim 19, Day et al disclose the invention substantially. Day et al do not disclose expressly about the computer readable medium is accessible by the computer via a network.

However, a routineer in the art would know that this is quite possible and it is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the readable medium accessible by a computer via a network and this way allowing a number of computers to access the script.

44. As per claim 37, Day et al disclose about an operating system and a text-based script file [col. 3, lines 5-9, 48-51; col. 4, lines 27-33]. Day et al do not expressly disclose that the same method of installing a customized operating system could be directed for recovering from failure of software on a computer. However, a routineer in the art would recognize this because if a failure occurs due to software failure including customized operating system and/or software applications, one would be able to repeat the process of re-installing the customized operating system and/or software applications. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the text-based script file of installing a customized operating system and/or software applications to recover from failure of software on the computer.

45. As per claim 38, Day et al disclose that wherein the software includes another operating system image [col. 3, lines 5-9].

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46. As per claims 41 and 55, Day et al disclose the invention substantially. Day et al do not disclose about creating at least one hive. However, a routineer in the art would know about creation of hive as it is known in the art and it will speed up the process. Therefore, it would have been obvious to one of ordinary skill in the art to utilize the process of creating hives for faster installation process.

47. As per claim 50, Day et al disclose the invention substantially. Day et al do not expressly disclose about recovering another from software failure. However, a routineer in the art would recognize this because if a failure occurs due to software failure including customized operating system and/or software applications, one would be able to repeat the process of re-installing the customized operating system and/or software applications. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use method of customized installation to recover workstation from software failure.

48. As per claim 52, Day et al disclose the invention substantially. Day et al do not expressly disclose about allowing the user to add at least one of the additional operating system components to the selected set of operating system components. However, Day et al clearly mention that the invention can be used to a variety of operating systems and thus a user could add additional operating system components in the base operating system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the user to be able to add additional operating system components.

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Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K Suryawanshi whose telephone number is 703-305-3990. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 703-305-9717. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

sks

June 9, 2004


THOMAS LEE
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